

REMARKS

Claims 2, 3, 5 and 6 are pending in this application. By this Amendment, claims 2 and 5 have been amended and claims 1 and 4 have been canceled without prejudice or disclaimer. The applicants respectfully submit that no new matter has been added. It is believed that this Response is fully responsive to the Office Action dated March 15, 2002.

Allowable Subject Matter:

Applicants gratefully acknowledge the Examiner's indication in item 2 of the outstanding Action that claims 2, 3, 5 and 6 would be allowable if rewritten into independent form to include all of the features of the base claims.

It is respectfully submitted that claims 2 and 5 have been rewritten into independent form to include the features of base claims 1 and 4, respectively. Thus, it is respectfully submitted that claims 2 and 5 (and claims 3 and 6 by dependency) are now allowable over the prior art of record.

Thus, it is respectfully asserted that all of the remaining pending claims 2, 3, 5 and 6 are indicated as being allowable over the prior art of record. Therefore, it is respectfully requested that the Examiner allow these claims, along with the entire application, to issue.

If, for any reason, it is believed that this application is not now in condition for allowance, the Examiner is requested to contact Applicant's undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

Attached hereto is a marked-up copy version of the changes made to the claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

In the event that this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. The fees for such an extension or any other fees which may be due with respect to this paper, may be charged to Deposit Account No. 01-2340.

Respectfully Submitted,

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PATENT TRADEMARK OFFICE

Enclosures: Version with markings to show changes made

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In The Claims:

Claims 1 and 4 have been canceled without prejudice or disclaimer.

Claims 2 and 5 have been amended as follows:

2. (Amended) An encoder [as set forth in Claim 1,] having a code pattern provided on a rotary disk, which detects the rotation speed and rotational position of the rotary disk by receiving light coming from a light emitting element and transmitted through or reflected from said code pattern by said light receiving element; wherein a fixed slit which is disposed between said rotary disk and said light receiving element so that a plurality of light receiving windows through which light reflected from or transmitted through the code pattern passes is disposed so as to have a difference in phase at different positions in the radial direction of the rotary disk; the length of said light receiving windows in the radial direction is set so as to gradually become shorter from the inner peripheral side toward the outer peripheral side; and the opening area of said light receiving windows at the inner peripheral side of said fixed slit is set to be equal to that at the outer peripheral side, wherein said light receiving windows are a group of light receiving windows, consisting of a plurality of light receiving windows disposed on the same radius at the same phase, and the total sum of the opening areas of light receiving windows of the same phase and the total sum of light receiving windows of the other phase are set to be equal to each other.

5. (Twice Amended) An encoder [as set forth in claim 4] having a code pattern provided on a rotary disk, which detects the rotation speed and rotational position of the rotary disk by receiving light transmitted through or reflected from said code pattern by light receiving elements; wherein said light receiving elements have a plurality of light receiving portions to receive light, coming from a light emitting element, transmitted from or reflected from said code pattern, which are disposed so that they have differences in phase in different positions in the radial direction of said rotary disk, the length of said rotary disk of the light receiving portions in the radial direction is set so as to gradually become shorter from the inner peripheral side toward the outer peripheral side; the area of the light receiving portion at the inner peripheral side of the light receiving element is set to be equal to that at the outer peripheral side, wherein said light receiving portions are a group of light receiving portions consisting of a plurality of light receiving portions disposed on the same radius at the same phase, and the total sum of the opening areas of light receiving portions of the same phase and the total sum of light receiving portions of the other phase are set to be equal to each other.